

1 KEVIN V. RYAN (CASBN 118321)  
2 United States Attorney

FILED

05 MAR 22 PM 3:30

RICHARD M. VILKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10 SAN FRANCISCO DIVISION

JSW

11  
12 UNITED STATES OF AMERICA,

13 Plaintiff,

14 v.

15 RAIMUND WERSCHING,

16 Defendant.  
17

CR No. 06 0183

VIOLATIONS: 18 U.S.C. § 1033 – Crimes  
by Person Engaged in Business of Insurance;  
26 U.S.C. § 7201 – Tax Evasion;  
26 U.S.C. § 7203 – Failure to File Return;  
18 U.S.C. § 2 – Aiding and Abetting;

SAN FRANCISCO VENUE

18  
19 INDICTMENT

20 The Grand Jury charges:

21 Introductory Allegations

22 At all times relevant to the charges set forth in this Indictment:

23 A. The Defendant and the Wersching Agency

24 1. Defendant RAIMUND WERSCHING was the owner of the Ray Wersching  
25 Insurance Agency (the “Wersching Agency”) located in Redwood City, California.  
26 WERSCHING was appointed an agent of the Farmers Insurance Group of Companies  
27 (“Farmers”) in February 1995. Farmers terminated WERSCHING’s appointment in March of  
28 2001. At all relevant times, WERSCHING was certified in California as a Certified Public

INDICTMENT

1 Accountant.

2 2. WERSCHING hired Mary Ann Locke, also known as Mary Ann Diaz, as an  
3 employee of the Agency on or about March 1, 1995. In 1996, WERSCHING granted Locke a  
4 fifty-percent ownership interest in the Wersching Agency and an associated corporation named  
5 Ray Wersching, Incorporated (the "Wersching Corporation"). At various times, WERSCHING  
6 held himself out as the President, Vice-President and Chief Financial Officer of the Wersching  
7 Corporation. Locke remained employed by the Wersching Agency until January of 2001.

8 3. The Wersching Agency maintained, among others, two accounts (the "Trust  
9 Account" and the "Operating Account") at Bank of America. WERSCHING and Locke were the  
10 only signatories on each of these accounts.

11 4. On December 24, 1992, Locke was convicted in Alameda County Superior Court  
12 of forgery in violation of California Penal Code Section 470, a felony. Locke was charged with  
13 grand theft and embezzlement from Superior National Insurance, as well as fifteen counts of  
14 forgery. Locke pled *nolo contendere* to a forgery count which charged that on or about  
15 November 23, 1988, she "did then and there with intent to defraud, sign the name of another  
16 person, or a fictitious person, knowing that . . . she had no authority so to do."

17 B. Farmers' Requirements Regarding Handling of Premium by Agencies

18 5. Under the terms of WERSCHING's Agent Appointment Agreement with  
19 Farmers, WERSCHING agreed to "collect[] and promptly remit monies due" to Farmers.

20 6. Farmers' policies and procedures required the Wersching Agency to promptly  
21 report to Farmers all premiums collected by the Agency on Farmers' behalf, and to promptly  
22 remit all such premiums to Farmers for the benefit of the client paying the premiums.

23 //

24 //

25 //

26 //

27 //

28 //

1 COUNT ONE (18 U.S.C. § 1033(b)(1)(B) – Willful Embezzlement and Misappropriation of  
2 Insurance Funds; 18 U.S.C. § 2 – Aiding and Abetting)

3 7. Paragraphs 1 through 6 are realleged and incorporated here as if they were set  
4 forth in full.

5 8. Beginning on a date unknown to the grand jury, but no later than April 1997 and  
6 continuing to on or about January 2001, within the Northern District of California and elsewhere,  
7 the defendant

8 RAIMUND WERSCHING,

9 being engaged in the business of insurance whose activities affected interstate commerce and  
10 being involved (other than as an insured or beneficiary under a policy of insurance) in a  
11 transaction relating to the conduct of affairs of such a business, did willfully embezzle, abstract,  
12 purloin and misappropriate the moneys, funds, premiums and other property of a person engaged  
13 in the business of insurance, as follows:

14 9. WERSCHING embezzled and misappropriated, and caused to be embezzled and  
15 misappropriated, over \$456,000 of premiums belonging to Farmers in 1997; over \$1.2 million in  
16 such premiums in 1998; over \$3 million in such premiums in 1999; and over \$3.4 million in such  
17 premiums in 2000, all by failing to remit and causing these premiums not to be remitted to  
18 Farmers as required by WERSCHING's appointment agreement with Farmers and Farmers'  
19 policies and procedures.

20 10. WERSCHING further misappropriated, and caused to be misappropriated,  
21 premium monies by failing to remit premium funds to Farmers on behalf of the client who paid  
22 those funds to the Wersching Agency, and instead remitting clients premium payments to  
23 Farmers on behalf of different clients.

24 11. WERSCHING further embezzled and misappropriated, and caused to be  
25 embezzled and misappropriated, moneys, funds and property belonging to Farmers by falsifying  
26 and altering documents and records detailing the amount of premium due in order to create a  
27 spread between the amount to be paid by the client and the amount purportedly due to Farmers,  
28 then keeping the difference between these two amounts.

1           12.     WERSCHING further embezzled and misappropriated, and caused to be  
2 embezzled and misappropriated, premium moneys belonging to Farmers by transferring such  
3 moneys from the Trust Account to the Operating Account, then using the funds for the benefit of  
4 the Wersching Agency, rather than remitting them to Farmers.

5           All in violation of Title 18, United States Code, Sections 1033(b)(1)(B) and 2,  
6 COUNT TWO: (18 U.S.C. § 1033(e)(1)(B) – Willfully Permitting Participation in Business of  
7 Insurance By Person Previously Convicted of Felony Involving Dishonesty)

8           13.     Paragraphs 1 through 12 are realleged and incorporated here as if they were set  
9 forth in full.

10          14.     Beginning on or about March 1, 1995 and continuing to on or about January 2001,  
11 within the Northern District of California and elsewhere, the defendant

12                                 RAIMUND WERSCHING,  
13 being an individual who was engaged in the business of insurance and whose activities affected  
14 interstate commerce, did willfully permit Mary Ann Locke, a/k/a Mary Ann Diaz, who had been  
15 convicted of a criminal felony involving dishonesty and breach of trust, to wit: forgery, to  
16 willfully engage in the business of insurance whose activities affected interstate commerce, and  
17 to participate in such business, specifically by, among other things, giving Ms. Locke a fifty-  
18 percent interest in the Agency and the Corporation; permitting Ms. Locke to hold herself out as  
19 the “President” of the Corporation; allowing Ms. Locke to handle the depositing and transferring  
20 of premium money to and between the Agency’s accounts; and allowing Ms. Locke to negotiate  
21 the terms and prices of insurance coverage for existing and prospective customers.

22          All in violation of Title 18, United States Code, Section 1033(e)(1)(B).

23 //

24 //

25 //

26 //

27 //

28 //

1 COUNT THREE: (26 U. S.C. § 7201 – Tax Evasion)

2 15. On or about June 15, 2000, in the Northern District of California, the defendant  
3 RAIMUND WERSCHING,  
4 who was an owner and Chief Financial Officer of Raimund Wersching, Incorporated, a  
5 corporation, well-knowing and believing that during the fiscal year 1999 said corporation had  
6 received taxable income in excess of \$2 million in commissions and that tax was owed to the  
7 United States of America on that income, did willfully attempt to evade and defeat the said  
8 income tax due and owing by the said corporation to the United States of America for said  
9 calendar year by failing to make an income tax return on or before June 15, 2000, as required by  
10 law, to any proper officer of the Internal Revenue Service, by failing to pay to the Internal  
11 Revenue Service said income tax, and by concealing and attempting to conceal from all proper  
12 officers of the United States of America the said corporation's true and correct income.

13 All in violation of Title 26, United States Code, Section 7201.

14 COUNT FOUR: (26 U.S.C. § 7201 – Tax Evasion)

15 16. On or about June 15, 2001, in the Northern District of California, the defendant  
16 RAIMUND WERSCHING  
17 who was an owner and Chief Financial Officer of Raimund Wersching, Incorporated, a  
18 corporation, well-knowing and believing that during the fiscal year 2000 said corporation had  
19 received taxable income in excess of \$1.6 million in commissions and that tax was owed to the  
20 United States of America on that income, did willfully attempt to evade and defeat the said  
21 income tax due and owing by the said corporation to the United States of America for said  
22 calendar year by failing to make an income tax return on or before June 15, 2001, as required by  
23 law, to any proper officer of the Internal Revenue Service, by failing to pay to the Internal  
24 Revenue Service said income tax, and by concealing and attempting to conceal from all proper  
25 officers of the United States of America the said corporation's true and correct income.

26 All in violation of Title 26, United States Code, Section 7201.

27 //

28 //

1 COUNT FIVE: (26 U.S.C. § 7203 – Failure to File Corporate Tax Return)

2 17. During the fiscal year 1999, in the Northern District of California and elsewhere,  
3 the defendant

4 RAIMUND WERSCHING

5 was an owner and the Chief Financial Officer of Raimund Wersching, Incorporated, a  
6 corporation not expressly exempt from tax, with its principal place of business at Redwood City,  
7 California, which had received a gross income in excess of \$2 million, and by reason of such  
8 facts he was required by law, after the close of the fiscal year 1999, and on or before June 15,  
9 2000, for and on behalf of such corporation, to file with the Internal Revenue Service an income  
10 tax return, but the defendant willfully failed to file a return on or before that date.

11 All in violation of Title 26, United States Code, Section 7203.

12 //

13 //

14 //

15 //

16 //

17 //

18 //

19 //

20 //

21 //

22 //

23 //

24 //

25 //

26 //

27 //

28 //

1 COUNT SIX: (26 U.S.C. § 7203 – Failure to File Corporate Tax Return)

2 18. During the fiscal year 2000, in the Northern District of California and elsewhere,  
3 the defendant

4 RAIMUND WERSCHING

5 was an owner and the Chief Financial Officer of Raimund Wersching, Incorporated, a  
6 corporation not expressly exempt from tax, with its principal place of business at Redwood City,  
7 California, which had received a gross income in excess of \$1.6 million, and by reason of such  
8 facts he was required by law, after the close of the fiscal year 2000, and on or before June 15,  
9 2001, for and on behalf of such corporation, to file with the Internal Revenue Service an income  
10 tax return, but the defendant willfully failed to file a return on or before that date.

11 All in violation of Title 26, United States Code, Section 7203.

12  
13 DATED: *March 22, 2006*

A TRUE BILL.

14  
15   
16 FOREPERSON

17 KEVIN V. RYAN  
United States Attorney

18 *Angel Chaves as*  
19 EUMIL L. CHOI  
Chief, Criminal Division

20 (Approved as to form: *H.S. Gilliam*)  
21 AUSA Gilliam